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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/551,973      | 04/14/2000  | Barbara Westfield    | 830053.410          | 2231             |

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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC  
701 FIFTH AVE  
SUITE 6300  
SEATTLE, WA 98104-7092

EXAMINER

BECKER, DREW E

ART UNIT

PAPER NUMBER

1761

DATE MAILED: 12/24/2002

15

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/551,973

Applicant(s)

WESTFIELD, BARBARA

Examiner

Drew E Becker

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 October 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Barradas [Pat. No. 5,445,061] in view of Pollock [Pat. No. 2,251,600].

Barradas teaches a method of baking bread by mixing the ingredients in the container to form a dough, dividing the dough into portions, placing the portions into trays supported by a frame structure, and baking the dough (column 2, lines 57-70; Figure 5).

Barradas does not teach a frame with two sidewalls which hold the removable trays.

Pollock teaches a bread baking device comprising a frame (Figure 1, #5), the frame

having two sidewalls and a base member (Figure 1, #14 & 20), vertically-spaced removable trays (Figure 1, #21-22), the frame having an opening large enough to place and remove the trays (Figure 1), and a handle (Figure 1, #16). It would have been obvious to one of ordinary skill in the art to incorporate the frame structure of Pollock into the invention of Barradas since both are directed to bread baking methods, since Barradas already includes a frame (Figure 5), and since the sidewalls and handle of Pollock would have permitted the entire frame to be inserted through the top door of Barradas as a single unit, rather than as separate pieces which can be difficult to stack in a heated environment, such as the baking chamber of Barradas.

3. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barradas in view of Pollock, as applied above, and further in view of Hsu [Pat. No. 5,665,258].

Barradas and Pollock teach above mentioned concepts and components. Barradas and Pollock do not teach the base member engaging a coupling device. Hsu teaches a method of baking by coupling a base member to a coupling device (Figure 4, #61 & 81). It would have been obvious to one of ordinary skill in the art to incorporate the connection of Hsu into the invention of Barradas, in view of Pollock, since all are directed to baking devices, since Barradas already included a coupling device (Figure 2, 28), and since the connection of Hsu would have provided a more stable, central attachment point for the unitary frame of Pollock, and thus prevented the frame of Pollock from moving around within the baking chamber of Barradas.

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#### ***Response to Arguments***

4. Applicant's arguments with respect to claims 1-16 have been considered but are moot in view of the new ground(s) of rejection.

In response to applicant's argument that there is no suggestion to combine the references with regard to non-amended claim 17, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5

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USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Barradas teaches a bread making machine with a rack device (Figure 5) and Pollock teaches a rack with a unitary frame which is to be used in baking devices (column 1, lines 5-10).

### **Conclusion**

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew E Becker whose telephone number is 703-305-0300. The examiner can normally be reached on Monday-Thursday 7am-5pm.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 703-308-3959. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1495.

Drew E Becker  
Examiner  
Art Unit 1761

December 11, 2002

  
KEITH HENDRICKS  
PRIMARY EXAMINER